

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

TERRY TURNER, #B-18636,)	
)	
Plaintiff,)	
)	
-vs-)	No. 16-131-SMY-MAB
)	
WARDEN SPILLER, JOSEPH YURKOVICH,)	
and ORANGE CRUSH TACTICAL TEAM,)	
)	
Defendants.)	

DEFENDANTS' MOTION TO DISMISS

NOW COME the Defendants, THOMAS SPILLER and JOSEPH YURKOVICH, by and through their attorney, Kwame Raoul, Attorney General of the State of Illinois, and pursuant to Federal Rule of Civil Procedure 41(b), hereby move this Court for involuntary dismissal. In support thereof, Defendants state as follows:

1. On February 4, 2016, Plaintiff filed his complaint pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights during an April 2014 Tactical Team shakedown at Pinckneyville Correctional Center. [Docs. 1 & 8].
2. On March 11, 2016, this case was consolidated with the case of *Ross v. Gossett, et al.* (case No. 15-309-SMY). [Doc. 8].
3. On May 10, 2017, the Court ordered Plaintiff to file a notice of change of address with the Court within 14 days. [Doc. 10], because the Court had been informed by the IDOC that Plaintiff had been released on mandatory supervised release. Pursuant to the Illinois Department of Corrections Offender Search website, Plaintiff was paroled on March 1, 2017.
4. Plaintiff did not file a notice of change of address with the Court in response to the Court's May 10, 2017 order. [Doc. 18].
5. On March 25, 2019, this matter was severed from the *Ross* case. [Doc. 13].

6. On August 21, 2019, Defendants filed their answer to Plaintiff's complaint. [Doc. 16].
7. On September 4, 2019, the Court entered its initial scheduling and discovery order. [Doc. 17].
8. On October 9, 2019, pursuant to Local Rule 3.1(b), the Court again ordered Plaintiff to update his address with the Court within 14 days. [Doc. 18].
9. As of today's date, Plaintiff has not updated his address with the Court, despite two orders to do so. [Docs. 10 & 18].
10. Additionally, after a review of this matter, undersigned counsel has not received any correspondence or discovery requests from Plaintiff.
11. Federal Rule of Civil Procedure 41(b) provides for involuntary dismissal if a Plaintiff fails to prosecute or to comply with the rules of civil procedure.
12. Plaintiff has failed to prosecute his case against Defendants Spiller and Yurkovich by failing to update his address with the Court, despite orders to do so pursuant to Local Rule 3.1.
13. Therefore, Plaintiff's case should be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 3.1.

WHEREFORE, for the above and foregoing reasons, Defendants pray this Court grant their motion to dismiss and dismiss this matter with prejudice.

Respectfully submitted,

THOMAS SPILLER and JOSEPH YURKOVICH,

Defendants,

Megan Ditzler, #6318052
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62701
(217) 557-0261 Phone
(217) 524-5091 Fax
Email: mditzler@atg.state.il.us

KWAME RAOUL, Illinois Attorney General,

Attorney for Defendants,

By: s/ Megan Ditzler

Megan Ditzler
Assistant Attorney General

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

TERRY TURNER, #B-18636,)	
)	
Plaintiff,)	
)	
-vs-)	No. 16-131-SMY-MAB
)	
WARDEN SPILLER, et al.,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2019, the foregoing document, *Defendants' Motion to Dismiss*, was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to the following:

NONE

and I hereby certify that on the same date, a copy of the foregoing document was mailed by United States Postal Service, to the following non-registered participant(s):

Terry Turner
3208 West 66th Street, 1st FL
Chicago, IL 60629

s/ Megan Ditzler

Megan Ditzler, #6318052
Assistant Attorney General